

OPINIONS FROM

SUPREME COURT

Judge Stewart Reversed in
Stover Divorce Case.

DECISION AGAINST O. S. L.

COMPANY BOUND BY ACT OF
AGENT.

Three opinions, written by Justice Barthelemy and concurred in by Chief Justice Miner and Justice Eakin, were delivered yesterday in the supreme court, any in two of the opinions, the judgment of the lower court was affirmed.

The first affirmative opinion rendered was in the case of George Nichols against the Oregon Short Line Railroad company, appellant. The plaintiff sued for damages in the sum of \$2,451.60, and was given a verdict for \$1,293.72, which was afterwards reduced by Judge Booth to \$1,000, to compensate plaintiff for the failure of the railroad company to furnish him with twelve cars for the shipment of his 3,370 sheep from Soda Springs, Idaho, to Omaha two years ago last October, according to an alleged agreement. At the trial Nichols showed that his sheep were deprived of feed for ten days, on account of the company's failure to furnish the cars as ordered, and that he had no notice that the cars would not be sent to be loaded during the period of delay and during which time other shippers whose orders went in after plaintiff's were given a preference in facilities to send their sheep to market. Nichols ordered double-decked Chicago & Northwestern cars, and the railroad company pleaded that its station agent at Soda Springs had no authority to accept plaintiff's order for any cars other than Short Line cars. The appellant contended that a verdict against it, in the face of this contention, constituted a reversible error, but the appellate court declined to concur in this view of the question.

Partnership Case.
Another opinion affirming the judgment of the lower court was delivered in the case of Emily Peterson, appellant, against J. C. Armstrong, H. O. Harkness and D. D. Jones, trading as partners under the name of the Idaho Lumber company. The action was for the recovery of \$119 as the balance of the purchase price of a piece of land south of Ogden, which was secured by Jones without the knowledge or consent of his partners by canceling mortgage on other property. The trial court held that the purchase of the land was without the lawful scope of the partnership, and the partners, Armstrong and Harkness, who had been kept in ignorance of the transaction for several years, could not be held liable for the debt. This ruling was affirmed by the supreme court.

Stover Divorce Case.
In the case of Clarinda B. Stover, appellant, against J. C. Stover, the supreme court reversed the decision of Judge Stewart in refusing to modify the decree of divorce granted to plaintiff, which awarded her monthly alimony at the rate of \$25, and gave defendant the custody of the four minor children. The appeal was taken on the ground that the decree was inconsistent with and unsupported by the findings of fact, although at the time of the trial Stover's attorney, at his request, had all reference to the alleged immoral conduct of his wife eliminated from the findings. The decree recited that the divorce was granted because of the defendant's non-support of plaintiff by defendant, and in reviewing the case the appellate court's opinion observes that the custody of the children was taken from the parent who was shown in the court record to be innocent of any wrongdoing. Inasmuch as the evidence was not before the appellate court as to whether the findings and decree were justified, the case is remanded with directions to the court below to grant a new trial for the purpose of determining these points in controversy.

TWO DIVORCE SUITS.

Wives Are the Complainers in Each Instance.

Lola B. Woodward, a colored woman, yesterday filed suit in the district court against her husband, Edward Woodward, for a decree of divorce and alimony, on the ground alleged that on Sept. 11 of this year the defendant struck her a violent blow on the face with his fist, and at other times since then he has subjected her to extreme cruelty. The parties to the suit were married in this city on Feb. 14, 1901.

On the alleged suit of the wife of this year her husband deserted and left her without support, Anna L. Erickson yesterday sued John H. Erickson for a divorce. They were married at Lake Umbagog, Minn., on March 25, 1888, and the plaintiff was awarded the custody of her son, aged 7 years, and her daughter, aged 5 years.

Suits to Collect Money.

Elmer E. Darling and J. C. West were yesterday made defendants in an action commenced in the district court by Elbert S. Roos to recover \$2,500 damages for the alleged unlawful trespass upon and destruction by defendant of the east 5.4 feet of lot 2, block 21, plat G, on the north side of Second street, east of Q street. The principal damage is claimed for the loss of opportunity to sell the property.

A. P. Callison and W. S. Bing, trading as the Salt Lake Stamp company, are suing G. F. Beckstead in the district court to be declared the owner of 20,000 sheep tags furnished to defendant on his order last May. Maylan C. Fox is suing William Davidson in the district court to receive a judgment in the sum of \$481 and interest from Nov. 24, 1933.

Damage Case Trial Stops.

The trial of the damage case of Gina Wittenberg, administratrix of the estate of her husband, R. P. Wittenberg, against the Salt Lake City Railroad company, was commenced yesterday before Judge Morse and a jury, but plaintiff's attorney declined to leave to amend the complaint and the request was granted. This necessitated a dismissal of the case and the discharge of the jury. The amended complaint will be filed within five days. The original complaint demanded \$10,000 to compensate for the alleged fatal injuries to the old man on Aug. 18, 1899, by reason of being thrown from his seat in a car at the intersection of Sixth and G streets.

District Court Notes.

Judge Hall was engaged yesterday with the trial of the case of Robert Edwood against Andrew S. White, to quiet title to a strip of land in section 24, township 2 south, range 1 west. Attorneys Frick and Edwards are counsel for plaintiff and W. R. Hutchinson is for the defense. The evidence was concluded just as court adjourned for the day.

Edward Morgan yesterday applied to the district court to be appointed administrator of the estate of his deceased mother, Louisa Scott Morgan, who died at Mill Creek in November

of last year, leaving property worth \$350 to be distributed to six heirs. The petition will be heard on Friday.

DRUGGIST ACQUITTED.

Judge Diehl Decides That the
Police Employed Improper
Methods.

The case against F. A. Druehl, president of the Smith Drug company, charged with violating the liquor license, which has been under consideration by Judge Diehl for several weeks past, was decided yesterday in favor of the defendant. This decision, it is said, will probably settle the other nine cases, but they have not yet been disposed of. The judge held that the defendant was guilty of a violation of the law in intent and purpose, but that the methods employed by the police were not in accordance with the law and he accordingly found the defendant not guilty and discharged him.

Judge Diehl, in giving his decision, said: "The court has carefully considered the evidence introduced by the defense and the authorities presented on the case by both sides. Some of the cases cited by the prosecution I do not think were exactly to the point, and others wherein the matters had been carried to the supreme court did not show that the methods of securing evidence against an offender as employed by the police were justified. The court believes that Chief Hilton, acting through his men in these matters, did what he did in good faith, and I do not desire to criticize the police, but I do not believe that the methods employed by the officers in inducing the defendants to sell them liquor in order to secure evidence against them was in accordance with the laws of justice and right. "I condemn the druggists for violating the liquor law, because they are business men and citizens who should know better and should assist in having the laws enforced. I believe that the defendant Druehl was guilty in intent and purpose, but not in the contemplation of the law, and he will be found not guilty and discharged."

The large dealers contracted for about all the police officers who were called to the sidewalk across the street and spun along the smooth pavement. The attention of the officers was called to the infraction of the law beneath their noses.

"Well, the nerve of that girl," remarked one, as he shoved his hands in his pockets and gazed across the muddy street.

"Why don't you do your duty and arrest her?" was asked.

"Huh!" replied the bluecoats, in chorus; but they stood and chewed the rag. "You must want us to get a roast and a bawling out," said one of the men, as he sauntered away down the street.

The fair bicyclist wheeled on unmolested.

RESTAURANT MAN FINED.

Potts Pays \$50 for Selling Beer on Sunday.

S. W. Potts, the restaurant man who was arrested for disposing of liquor on Sunday contrary to the "Sunday dry law," appeared before Judge Diehl yesterday and pleaded guilty. He informed the judge, through his attorneys, Johnson & Fowler, that it was his first offense and that he intended to make it his last. He thought under those conditions he should be let off on a light fine.

"In view of the flagrant violation of this Sunday law," said the judge, "I ought to impose a heavier fine on those who willfully violate the law, but it will be \$50 or fifty days this time." Potts decided to pay the \$50 and he was released.

S. Schaeffer, the bartender at the Drumm saloon on Main and Market streets, appeared and entered a plea of not guilty. He asked for a continuance of the case on the grounds that he had not yet had an opportunity to consult an attorney, and the case was set for Wednesday at 2 p. m.

Philip Booth, the lookout at Potts' restaurant, who attempted to prevent the officers from raiding the place, was charged on account of there being no complaint against him. John Stirling, the drunk who was found in Potts' place, was also discharged in default of a complaint against him.

A Few Pointers.

The recent statistics of the number of deaths show that the large majority of them are caused by diseases which may be cured by an apparently harmless cough which can be cured instantly by Kemp's Balsam for the Throat and Lungs, which is guaranteed to cure and relieve all cases. Price, 25c and 50c. Trial size free. For sale by Godbe-Pitts Drug company.

He's here. Who? Can you guess?

Bromo-Lax contains no quinine. Cures Colds, Headaches, Stomach Distress. No bad effects like quinine preparations. At all drug stores, 25c.

He's here. Who? Can you guess?

Entire Stock Women's Suits One-third Off Regular Prices. Sale now on. AT WALKER'S.

Great Corset Sale. At Z. C. M. I. week of Nov. 25.

Butler's Market.

Turkeys, chickens, cranberries, celery, cauliflower, fruits, vegetables, choice Utah and eastern meat, creamery butter, Utah eggs, etc., etc., at lowest prices. 210 S. 1st. Tel. 2922.

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Rode on the Sidewalk.

In police court yesterday M. Rasmussen, a lawyer who said he had only been riding a wheel for ten days, appeared on a charge of violating the bike ordinance. Officer Davies caught him riding along the walk opposite the police station. Rasmussen pleaded that he did not know the law, and after promising to study it up he was released.

TWICE TOLD TALES.

No Meat Extracted From Them by Some Who Most Need the Facts.

We have more than twice told the reader of the Herald that he or she may perhaps easily discover the cause of the daily ill feeling and the experiment is not difficult to make.

But there are readers who think truths are someone else and not for themselves.

Some day the oft-told fact will flash upon us as applicable when the knowledge comes home, that day after day of inconvenience and perhaps of suffering has been endured, the cause not being recognized or believed, although we may have been told of the cause many times over, but never believed it applied to us.

It would startle a person to know how many people suffer because they drug themselves daily with coffee. We repeat it, it is a powerful drug, and so affects the delicate nervous system that disease may appear in any part of the body, all parts being dependent for health on a healthy nervous system.

Relief from coffee for 30 days has cured thousands of people who never suspected the cause of their troubles. The use of Postum Food Coffee is a great benefit to such, as it goes to work directly to rebuild the delicate cell structure from the elements nature selects for the work. Relief from a heavy drug and the taking of proper nourishment is the true and only permanent method.

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The fair bicyclist wheeled on unmolested.

He's here. Who? Can you guess?

The Skill of the Cook

Is demonstrated to the family through the medium of the food she serves. Those cooks show the greatest skill in making delicious and wholesome hot-breads, cake and biscuit who use the Royal Baking Powder.

ROYAL BAKING POWDER CO., 100 WILLIAM ST., NEW YORK.

MAY RIDE ON SIDEWALKS.

Policemen Refuse to Arrest Female Bicyclists.

An incident which occurred yesterday indicates that female bicyclists have the police "buffaloed," and if they feel inclined to spin along the sidewalks in the restricted districts, or even in the business part of the city, to avoid the horrid old mud in the streets, they need have no fear. Their names will appear on the docket of the police court. The incident occurred in front of the police station. Three of the eagle-eyed sleuths were assembled at the station discussing the case of a woman who had been riding on her pneumatic steel wheeled onto the sidewalk across the street and spun along the smooth pavement. The attention of the officers was called to the infraction of the law beneath their noses.

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SURPLUS OF TURKEYS.

Market is Over-supplied With Thanksgiving Poultry.

Turkeys will have the front of the stage in the local produce market for a balance of this week, and there promises to be a greater number of the birds consumed in Salt Lake on Thursday next than on any other day of the year. There is no lack of turkeys, in fact the dealers are having a hard time in handling all that are offered. Most of the large dealers contracted for about all the turkeys available in the market. The wholesale dealers are paying 13 cents a pound for the birds, and some fancy birds are going for more than that, but as a rule the market does not vary much from other years. There seems to be an abundance, too, of all the accessories to the turkey, such as oysters, nuts, vegetables and fruits. The latter are the most expensive things in the market, but good apples are selling as high as \$2.50 for a short bushel, which is as high as they have ever been in the local market. Some of these are shipped from New York state and the crop is short there.

Cranberries are higher this year than usual, because of the scarcity of the standard fruits. Good oranges are just beginning to come in from California; those on the market heretofore have been decidedly green.

JUBILEE SINGERS.

Fine Entertainment at the First Methodist Church.

Those who heard the Slayton Jubilee singers last night in their splendid concert at the First Methodist church, enjoyed a musical treat. The artists who composed the program were genuine jubilee singers, bubbling over with merriment, that holds the audience spellbound and throws it into convulsions of laughter. Each singer, in turn, was applauded by the singers last night disclosed some new accomplishment of the artists, and almost every piece was received by an encore which was graciously responded to by the singers.

The concert last night was the first in a series of five lecture course entertainments to be given during the winter by the Epworth League of the First Methodist church. The church was well filled with a most enthusiastic audience and the first event was voted a splendid success.

To Cure a Cold in One Day.

Take Laxative Bromo Quinine Tablets. All druggists refund the money if it fails to cure. E. W. Grove's signature is on each box. 25c.

Entire Stock Carpets and Portieres 20 Per Cent Off.

Today best day of sale. AT WALKER'S.

He's here. Who? Can you guess?

GIRL SEVERELY INJURED.

Condition of One of Parry's Victims Is Serious.

Two complaints charging him with attempted rape will likely be filed in Judge Diehl's court today against George Parry, the teamster who is now in the city jail. Dr. King stated yesterday that little Ethel Madsen, who is alleged to have been one of Parry's victims, had been most severely injured and that her condition was quite serious.

Assistant County Attorney Lounsbury spent all the afternoon yesterday securing evidence in the case against Parry, and his prosecution will likely commence today.

Complaints Against Hoodlums.

A complaint was made to the police yesterday that a gang of hoodlums in the vicinity of Seventh East and First South street is making life miserable for the residents of that portion of the city. The boys, it is said, choose the night for their operations, and destroy everything they can get their hands on. They seem to take a special delight in tearing down fences, and have torn away parts of a number of fences in the neighborhood. The residents have stood their depredations as long as they can and have requested the police to take a hand in the matter and punish the lads.

Keely Meeting Postponed.

The meeting of the Keely League called for yesterday for the election of officers was postponed until noon today.

STATE NEWS

MINER'S LUCKY ESCAPE

Mell Reed's Close Call in Star Consolidated Mine in Tintic.

(Special to The Herald.)

Mammoth, Nov. 25.—Mell Reed, a miner employed at the Star Consolidated, had a narrow escape from death this afternoon. He was standing on a stull in a mine when he was lowered from a level below. A rail broke loose six feet above him, grazed his head and then struck him a blow on the forehead which knocked him off the timber. He fell twenty feet onto a stull, from which he was thrown to a landing twelve feet below. He came near finishing the fall to the bottom of the mine, a further distance of twenty-five feet, which probably would have finished him. Aside from a severe bruise on the side where he hit the timber, he was unhurt.

WANT BIG JIM.

After Another Man for Stringing Up George Ellis.

Cedar City, Utah, Nov. 25.—Sheriff Floyd today left for Stettin in answer to a telegram from Sheriff Johnson, who wants him to hold "Big Jim" Morrison, who is now working in the Morris mine, until requisition papers from Nevada can be secured. Morrison is wanted for complicity in the stringing up of George Ellis, the negro of Pay, Nev. This case, in which seventeen prominent citizens of Pay are said to be implicated, is now being tried before Judge Talbot at Pioche, Nev.

NOW WANT DAMAGES.

Pumphrey, Nov. 25.—The jury in the Humphrey grand larceny case came into court this morning after having been out all night, with a verdict of not guilty. Immediately thereafter Mr. Chidester caused a surprise by moving the dismissal of the Maxwell crime against nature case. It appears that the state's circumstantial evidence in this case is somewhat modified and less positive now than it was at the preliminary hearing and that several of the state's best citizens were on hand to impeach the only eye witness.

The air this morning was full of rumors of some sort of compromise in the above-named defendant against the prosecuting witness in their respective cases. Humphrey having made formal demand for \$50 and Maxwell for \$250.

After another hard day's work on the big water case a compromise has been finally arrived at and late tonight a stipulation after which adjournment of court was had till Dec. 2.

BURGLARS AT COALVILLE.

Coalville, Nov. 25.—The house of Eph Williams at Wanship was burglarized yesterday. A quantity of bacon, fruit and other eatables was taken, but it is not known whether the burglars secured any money as Mr. Williams and his family were away when the house was broken into. Each of the burglars, seen in Wanship a few hours before the robbery and a posse of officers started in pursuit of them. One of the men was captured. He had twenty-five pounds of pork and several jars of fruit concealed in his hiding. The officers are on the trail of the other thieves and will doubtless apprehend them.

Spanish Fork Notes.

Spanish Fork, Nov. 25.—The funeral of Joseph E. Nielson, who was a victim of the Smelter-Union mine disaster at Telluride, Colo., was held today at the Central meeting house. The meeting was presided over by August Swenson, and the speakers were Professor James A. Rees, David Williams, Bishop Mernus Larson, Henry Gardner and Henry Thann.

There are several cases of typhoid here and a few cases of scarlet fever.

Elder Knies Jensen leaves Tuesday morning for Denmark, where he is to spend two years in the cause of Mormonism. Elder Knies Jensen, John Davis and Thomas Patterson leave Tuesday for the southwestern states.

Tooele Notes.

Tooele City, Nov. 25.—John A. Bevan, ex-county commissioner, leaves here today for a mission to the southern states. This will be his second mission to the south, he having spent two and a half years there some eighteen years ago.

The 11-year-old son of C. M. McBride died yesterday last Saturday night of bronchial pneumonia, having been sick but two days.

Thanksgiving Services.

Thanksgiving services will be held in the Christian Science church at 11 a. m., Thursday.

Never try to coax a cold or cough, use the remedy that unfailingly conquers both. BALLARD'S HOREHOUND SYRUP is the great specific for all throat and lung troubles. Price, 50 cents. Nelden-Judson Drug company.

Don't forget Meheys's fur store, Knutsford hotel building, is open every evening until 9 o'clock.

Children's Bonnets at Half Price at Z. C. M. I. Sale, week of Nov. 25.

He's here. Who? Can you guess?

FOOTBALL EXCURSION.

Via Oregon Short Line, to Ogden, on Thanksgiving day, under auspices of High school team. \$1.00 for the round trip. Special train going leaves at 10:00 a. m.

Washable Kid Gloves Sale at Z. C. M. I. week of Nov. 25.

He's here. Who? Can you guess?

POSTAL CARD PROTESTS.

Salt Lake Socialists Defending a Kansas Publication.

Five hundred socialists of Salt Lake City and their friends, in common with socialists all over the country, are engaged in an endeavor this week to swamp the postmaster at Girard, Kan., and Third Assistant Postmaster General E. C. Madden, with postal card protests. Their publication, the Appeal to Reason, is threatened with being barred from the mails on the ground that it is sent out largely for gratuitous distribution. The editor has been given until next Friday to show cause why the paper should not be barred from circulation at newspaper rates. In the meantime the campaign of protest is being waged.

All socialists have been called upon to participate in showing the postal authorities the evils of the proposed step. All who are subscribers have been appealed to, in order that the fact may be presented to Madden above their own signatures. A. B. Elder is taking an active lead in the movement in Salt Lake City.

There is probably no disease more distressing and annoying than piles. TABLET'S BUCKEYE PILE OINTMENT is daily curing cases of years' standing of itching and bleeding piles. The cure begins on the first application, a little perseverance makes the cure complete. Price, 50 cents in bottles. Tubes, 75 cents. Nelden-Judson Drug company.

Entire Stock Carpets and Portieres 20 Per Cent Off.

Today best day of sale. AT WALKER'S.

He's here. Who? Can you guess?

Special Bargains in Corsets at Z. C. M. I. week of Nov. 25.

ROYAL BREAD

Good Bread is just as necessary as good air. Use Royal Bread.

EVERY SCOOPFUL

of coal we sell you is a scoopful of clean coal. It burns bright, burns hot and burns long.

Then, there are 2,000 lbs in every ton.

BAMBERGER, 161 Meighn.

PRIZE AD. NO. 2.—Designed and written by Clifford Jennings, 815 East Brigham street.

\$50 REWARD

For the first case of piles of any kind that cannot be cured by

VERUS PILE CURE.

Hundreds of prolonged, hateful, dragging cases have succumbed to the magical effects of

VERUS. IT CURES.

No "ifs." One application relieves. When the box is gone so are the piles. Cost 25c, but worth it.

LOCAL AND MAIL ORDER AGENTS: JOHNSON-PRATT DRUG CO. SMITH DRUG CO.

State Fair 1901

Gold medal (highest prize) awarded Three Crown Baking Powder. Gold medal Three Crown Spices; Gold Medal Three Crown Flavoring Extracts. Merit award Buy the best and you will never be deceived.

Hewlett Bros. Co., Salt Lake City

Hot Stuff.

That is what you will need the coming winter. We are prepared. Cast your eye below at what we mix for your delectation:

Chocolate Malted Milk. Coffee Chicken Bouillon. Beef Tea Clam Bouillon. Lemonade Tomato Bouillon. Tea Beef Bouillon. Oyster Cocktails. Clam Cocktails. All kinds of Egg Drinks.

A.C. Smith

The Drug Man. Telephone No. 463. Opp. Herald.

Hotel Knutsford

G. S. Holmes, Proprietor. New and elegant in all its appointments; 20 rooms, single and en suite; 75 rooms with bath.

HUSLER'S FLOUR

don't MAKE GOOD BREAD then HUSLER'S FLOUR costs YOU NOTHING.

ECZEMA

Eczema sets the skin on fire. The acid poisons in the blood are forced